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TAGS: [AORC](#) [ENRG](#) [IAEA](#) [KNNP](#) [PREL](#) [UN](#)
SUBJECT: IAEA: INSTRUCTIONS FOR U. S. DELEGATION
PARTICIPATING IN IAEA BOARD OF GOVERNORS (BOG) MEETING,
JUNE 15-19, 2009.

REF: A. REF A: UNVIE 253
[1](#)B. REF B: U.S. POSITION PAPERS EMAILED TO UNVIE BY
IO/T JUNE 10 2009

[1](#)1. Department appreciates the Mission's preview and analysis for the June IAEA BOG meeting (ref A). Instructions for the U.S. Delegation (USDel) in paragraphs 2-13 follow the revised agenda (GOV/2009/33/Rev.1) issued on June 12, 2009. (Note: UNVIE should renumber the U.S. position papers in ref B according to the revised agenda.)

[1](#)2. AGENDA ITEM 1 - DG's INTRODUCTORY STATEMENT

The statement will be available after delivery. No U.S. action necessary. USDel should fax the Director General's statement to IO immediately following delivery.

[1](#)3. AGENDA ITEM 2 - THE ANNUAL REPORT FOR 2008

ISSUE: The Board will be requested to transmit the 2008 IAEA Annual Report, GOV/2009/23, to the 2009 General Conference (GC) in September, as required under Article VI.J of the Statute. The IAEA Annual Report serves not only as the statutorily required report from the Board to the GC, but also constitutes the Agency report to the United Nations General Assembly.

U.S. POSITION: USDel should join anticipated Board consensus to transmit the 2008 Annual Report (GOV/2009/23) to the fifty-third (2009) regular session of the GC. USDel may make a statement, inter alia, welcoming the report and noting the remarkable diversity of the Agency's work, as reflected in the Report, which is a documented reminder of the IAEA's important role in many aspects of international nuclear cooperation. Of special interest to Washington are Agency efforts to promote nuclear safety, security and safeguards and the development of a sound infrastructure by countries newly considering the development of nuclear power for peaceful purposes.

USDel should not comment on the anticipated Israeli intervention.

[1](#)4. AGENDA ITEM 3 - THE TECHNICAL COOPERATION REPORT FOR 2008
ISSUE: The Board will be asked to take note of the Technical Cooperation Report for 2008 (GOV/2009/27) and to request that it be transmitted, with modifications as necessary, to the 2009 GC.

U.S. Position: The USDel should read the statement in the U.S. position paper (ref B) reaffirming our strong support for the TC Program, including TC activities focused on: nuclear applications in human health; safety, including safety at Iran's Bushehr power plant; security; and support for infrastructure development in countries with emerging nuclear power programs.

15. AGENDA ITEM 4 - REPORT OF THE PROGRAM AND BUDGET COMMITTEE

ISSUE: The Board is asked to take note of the Report of the Program and Budget Committee (GOV/2009/26) and endorse the following recommendations:

-- To transmit the Agency's Accounts for 2008 together with the draft resolution for adoption by the General Conference;-- To approve a target for voluntary contributions For 2010 to the Technical Cooperation Fund of \$85,000,000;
-- To approve keeping the Working Capital Fund at the level of 15,210,000 Euros;
-- To approve use of the 2009 Equipment Replacement Fund; and
-- To approve the terms and conditions for the Appointment of the Director General.

U.S. POSITION: USDel should join consensus in supporting the recommendations of the Program and Budget Committee. USDel should make the statement on the 2010-11 Program and Budget found in the U.S. position paper (ref B).

16. AGENDA ITEM 5 - NUCLEAR VERIFICATION

(A) THE CONCLUSION OF SAFEGUARDS AGREEMENTS AND ADDITIONAL PROTOCOLS

ISSUE: The BOG will have before it for approval a Comprehensive Safeguards Agreement (CSA) (GOV/2009/37) and Additional Protocol (AP) (GOV/2009/38) for Rwanda, and an Additional Protocol for Serbia (GOV/2009/41). All conform to the standard texts contained in GOV/INF/276/Mod.1 and INFCIRC/540, respectively. The safeguards agreement also contains a small quantity protocol, which conforms to the new model adopted by the Board in 2005. Mission should advise if other safeguards agreements and Additional Protocols are submitted in advance of the June Board.

U.S. POSITION: USDel should support safeguards Agreements and Additional Protocols, provided they conform to the respective models. USDel should join consensus in approving any safeguards agreements or Additional Protocols that conform to the standard models and deliver statement contained in the U.S. position paper (ref B) urging all NPT states that have not yet done so to conclude and bring into force the required safeguards agreements; and bring into force Additional Protocols, which represent the new safeguards standard. USDel should also address the slow pace in adoption of the revised Small Quantity Protocol (SQP), which as of the end of 2008 was in force in only 19 of 80 countries with SQPs (as contained U.S. position paper, refB).

(B) THE SAFEGUARDS IMPLEMENTATION REPORT (SIR) FOR 2008

ISSUE: The Board will have before it, in document GOV/2009/24, the Safeguards Implementation Report for 12008. The report provides a description and analysis of the Agency's safeguards operations in 2008 and summarizes problems encountered. The Board will be asked to take note of the SIR and to authorize the release of the Safeguards Statement for 2008 and of the Background to the Safeguards Statement and Summary.

U.S. POSITION: The Safeguards Implementation Report (SIR) provides a description of the Agency's safeguards operations in 2008. It reports on the Agency's efforts to implement safeguards for the past year, noting achievements and areas needing improvement. USDel should join consensus to take note of the SIR and to authorize the release of the safeguards statement and the executive summary of the SIR. USDel should provide general remarks on safeguards implementation, as indicated in the statement in the U.S. position paper (ref B). The SIR statement addresses the need for progress in safeguards

adherence, welcomes the work of the IAEA and cooperation by Egypt in resolving its safeguards questions, and urges the secretariat to continue to look toward ways of making the SIR more transparent. The U.S. may subsequently provide by letter more specific and detailed comments on the SIR for 2008.

(C) STAFF OF SAFEGUARDS DEPARTMENT TO BE USED AS AGENCY INSPECTORS

ISSUE: The IAEA Secretariat is required to obtain Board approval for lists of Agency staff to be used as safeguards inspectors. The list of proposed inspectors became available on 28 May 2009. U.S. review of the list will not be complete before the Board meeting on 15 June. However, like all Member States, the United States has a separate opportunity after Board approval of the list to reject individuals on the list for designation as inspectors to the United States. Objection within three months prevents designation, and the United States can also revoke designation at any time. Hence, the timing of the list's release does not affect the U.S. ability to complete its internal reviews before acceptance of the inspectors named.

U.S. POSITION: The U.S. should join consensus on the adoption of the list. No statement is needed.

(D) REPORT BY THE DG ON SAFEGUARDS IN THE DPRK

ISSUE: The Secretariat will not provide a written report on the implementation of safeguards in North Korea for the June Board meeting. We expect the Director General's introductory remarks will address the significant developments that have taken place since the March Board, including the termination of the IAEA's monitoring and verification of the shutdown of key facilities at Yongbyon and Taechon, followed by the departure of IAEA inspectors, and the reported nuclear test on May 25. Although his remarks in March were markedly short, these recent events will likely prompt the DG to underline the urgency of the situation. After the North's first nuclear test in October 2006, the DG noted "deep regret and concern," and said the test was a serious challenge to the nuclear non-proliferation regime. The DG also used the opportunity to "re-emphasize" the urgent need to establish a universal ban on nuclear testing and cited UNSCR 1172 (1998), in which the UN Security Council reaffirmed "the crucial importance of the Treaty on the Non-Proliferation of Nuclear Weapons and the Comprehensive Nuclear Test Ban Treaty as the cornerstones of the international regime on the non-proliferation of nuclear weapons and as essential foundations for the pursuit of nuclear disarmament."

U.S. POSITION: We call on the DPRK to refrain from further provocative actions, to uphold its commitments to abandon all nuclear weapons and existing nuclear programs, and to abide by its international obligations. We deplore North Korea's decision to reverse disablement activities and cease cooperation with the IAEA. The May 25 nuclear test was a violation of UN Security Council Resolution 1718 and a threat to international peace and security. Such provocation will only serve to deepen North Korea's isolation. North Korea will not find international acceptance unless it abandons its pursuit of weapons of mass destruction and their means of delivery. We have been and will continue working with our allies and partners in the Six-Party Talks as well as other members of the U.N. Security Council in our pursuit for the verifiable denuclearization of the Korean Peninsula and the peace and stability of the North East Asian Region.

(E) IMPLEMENTATION OF THE NPT SAFEGUARDS AGREEMENT AND RELEVANT PROVISIONS OF SECURITY COUNCIL RESOLUTIONS 1737(2006), 1747(2007), 1803 (2008), and 1835 (2008) IN IRAN

ISSUE: The Board will discuss the Director General's

latest report on the status of the implementation of the IAEA's Safeguards Agreement in Iran, Iran's compliance with UN Security Council resolutions 1737, 1747, 1803, and 1835, and the Secretariat's investigation into Iran's nuclear activities.

U.S. POSITION: Instructions will be sent septel.

(F) IMPLEMENTATION OF NPT SAFEGUARDS IN SYRIA

ISSUE: For the third time since the IAEA began investigating Syria's undeclared nuclear activities, Syria is an official item on the Board's agenda. On June 5, the Director General submitted the third Syria report to Board members (GOV/2009/36), which describes Syria's steadfast refusal to cooperate with the IAEA's investigation into its nuclear activities. El Baradei lists the litany of fruitless attempts by the IAEA to obtain additional information and clarifications from Syria. The list of unanswered questions appears to be growing. The IAEA notes in this report that it detected traces of chemically processed uranium in the hot cells of Syria's declared Miniature Neutron Source Reactor (MNSR) in Damascus. Like the uranium found at al Kibar, these traces do not match uranium in Syria's declared nuclear material inventory. According to the report, the Agency is conducting further analysis to determine a possible connection between the uranium detected at the MNSR and that detected at the al Kibar site. The presence of additional, unexplained particles of uranium in Syria is a potential source of concern and could indicate more widespread undeclared nuclear activities in the country. These particles also reinforce the IAEA's assessment that the particles at al Kibar were not introduced by Israeli munitions, as Syria maintains, though the IAEA also notes that further Israeli cooperation in this regard would be helpful. Consistent with past practice, Syria delivered an eleventh-hour letter related to the finding at the MNSR on 1 June attempting to demonstrate a degree of cooperation immediately before the report's release. The IAEA's report, however, notes that the Syrian letter "did not address the presence and origin of the uranium" detected at the MNSR. The report also notes that Syria continues to refuse to grant Agency inspectors access to debris and equipment removed from the Dair al Zour site or access to sites believed to be related to the destroyed reactor.

At the November 2008 and March 2009 Board of Governors meetings, Syria, supported by Cuba, Iran and Egypt, successfully prevented the public release of the previous Director General's reports on Syria (GOV/2008/60 and GOV/2009/9). The U.S. delegation should expect a similar effort at this Board meeting.

U.S. POSITION: USDel should deliver the cleared Statement (to be provided septel) and coordinate with like-minded states to deliver strong national and regional group statements highlighting in detail the growing evidence that Syria was constructing a clandestine reactor and concern that new evidence suggests that its activities went beyond the destroyed reactor. Statements should also highlight Syria's ongoing efforts to hinder the IAEA investigation.

USDel should call for the DG's report on Syria to be released publicly and encourage the like-minded to do the same. As it may be detrimental to other key objectives at the Board, primarily public release of the Iran report, delegation should not call for a vote on this matter if, as expected, some states object to releasing the Syria report. However, if a like-minded member state calls for a vote, delegation is instructed to vote in favor of publicly releasing the report.

USDel should keep Washington apprised of any developments and seek further guidance as needed.

17. AGENDA ITEM 6 - ASSURANCE OF SUPPLY

(A) Proposal by the IAEA DG for establishment of an IAEA Low Enriched Uranium (LEU) Bank
(B) Russian Initiative to establish a reserve of LEU for supply to the IAEA for its Member States
(C) German proposal on Multilateral Enrichment Sanctuary Project (MESP)

ISSUE: For items 6(a) and 6(b), the Board will be asked to take note of two Secretariat reports, "Proposal by the Director General for the Establishment of an IAEA Low Enriched Uranium (LEU) Bank' (GOV/2009/30), and "Russian Federation Initiative to Establish a Reserve of Low Enriched Uranium (LEU) for the Supply of LEU to the IAEA for its Member States' (GOV/2009/31), and to request the Director General to submit detailed proposals for the Board's subsequent consideration. For Item 7(c) the Board will be asked take note of a German paper (GOV/2009/32) on that country's Multilateral Enrichment Sanctuary Project (MESP).

U.S. POSITION: USDel may join consensus to note the three documents and should support requests for the Secretariat to provide agreement texts for consideration by the September BOG. However, an agreement based solely on the concepts in GOV/2009/30 would be flawed since it would allow the IAEA to disperse LEU without attaching sufficient nonproliferation conditions. It would not, for example, reflect the export guidelines adopted by the Nuclear Suppliers Group by requiring full-scope Safeguards in the recipient state, nor would it require Compliance with UNSC resolutions on proliferation issues. The IAEA will also need to clarify the conditions for disbursement of fuel from the bank (e.g., what is a "supply disruption unrelated to technical or commercial considerations") and how it will manage a physical stockpile (including liability issues). We should therefore call for consultations on the content of the agreement and other details of implementation with the NTI donors (U.S., EU, Norway, UAE, Kuwait), some 31 states, many of which are on the Board, other suppliers (including Russia), and potential beneficiary states between the June BOG and the September meeting. Our key goal during these consultations would be to develop terms and conditions for the NTI fuel bank for Board consideration in September that correct the deficiencies of the IAEA paper. In particular, we would push to add the full-scope safeguards criterion that is already in the Russian paper on Angarsk. As appropriate, we should also seek to establish the principle that supplier states could impose criteria required by their own laws and policies for retransfer of donated LEU by the IAEA.

The German MSEP proposal (GOV/2009/32) is fundamentally flawed. Among other problems, it would interfere with the international commercial market, and it is not clear that the IAEA could assume duties under this proposal consistent with the IAEA Statute (e.g., governing territory and licensing exports).

USDel should oppose any effort to raise the procedural argument that the General Conference rather than the Board must or should approve IAEA involvement in any multilateral nuclear arrangements. The delegation may draw upon the following points as appropriate:

-- Article XI of the Statute assigns to the Board the authority to approve Agency projects. (The General Conference has authority to approve agreements between the Agency and other international organizations, which is not relevant to this situation.)

-- Rule 50 of the Board's Provisional Rules of Procedure provides a mechanism by which Member States can contribute their views on this issue. Several states did so in past Board meetings. We encourage Member States to contribute to the discussion when the Board has detailed proposals before it.

-- This priority, identified by the Director General some years ago, deserves the Board's continued active consideration, informed by expert views from the Secretariat and all Member States that wish to contribute.

U.S. STATEMENT: USDel should deliver the statement in U.S. position paper (ref B), modified as appropriate. USDel may, if desired, deliver an abbreviated statement, with the entire statement made available to Member States and the IAEA Secretariat. USDel should also encourage other Board members to make similar statements.

18. AGENDA ITEM 7 - DESIGNATION OF MEMBERS TO SERVE ON THE BOARD IN 2009-2010

ISSUE: Pursuant to Rule 47 of its Rules of Procedure, the Board will be requested, in accordance with Article VI.A.1 of the Statute, to designate members to serve on the Board of Governors from the end of the fifty-first (2009) regular session of the General Conference to the end of the fifty-second (2010) General Conference. A draft memorandum, by which the Board could notify the General Conference of the names of the members which it designates, will be before the Board in document GOV/2009/28.

U.S. POSITION: USDel is authorized to join the expected consensus in approving the designation of the thirteen member states identified in GOV/2009/28 to serve on the Board in 2009-2010. No statement is needed.

19. AGENDA ITEM 8 - APPOINTMENT OF DG

ISSUE/U.S. POSITION: The Board Chair will make a statement on the status of the election for Director General, including the results of the latest straw poll. No appointment will be made at this time. No statement is necessary.

10. AGENDA ITEM 9 - PROVISIONAL AGENDA FOR THE 53rd (2009) REGULAR SESSION OF THE GC

ISSUE: The Board will be consulted on the Provisional Agenda for the 53rd regular session of the GC (GOV/1009/29), scheduled to begin on Monday, 14 September, 2009.

U.S. POSITION: As the Board is only being "consulted" on the agenda, no U.S. position is required.

11. AGENDA ITEM 10 - REPRESENTATION OF OTHER ORGANIZATIONS AT THE 53rd (2009) REGULAR SESSION OF THE GC

ISSUE: The Board will be asked to invite the OPEC Fund for International Development, the Center for Nonproliferation Studies, and the U.S. Civilian Research and Development Foundation (listed in GOV/2009/21) to be represented as observers at the forthcoming September 2009 General Conference.

U.S. POSITION: USDel is authorized to join the expected consensus in recommending that the OPEC Fund for International Development, the Center for Nonproliferation Studies, and the U.S. Civilian Research and Development Foundation be invited to be represented at the fifty-third (2009) regular session of the General Conference. No statement is needed.

12. AGENDA ITEM 11 - DE-RESTRICTION OF DOCUMENTS OF THE BOG

ISSUE: At its March session, the Board agreed to place on the agenda of its next meeting an item on this matter. It may be recalled that the Board approved in March 1996 a proposal, contained in document GOV/2843 and dated 15 February 1996, for de-restriction of Board documents.

This document has been re-circulated in a report by the Director General (GOV/2009/25).

U.S. POSITION: USDel should underscore the Board's prerogatives with respect to early de-restriction of Board Documents. To counter likely NAM rhetoric on this agenda item, USDel may note that the IAEA Board decisions, unlike UN Security Council resolutions or those of other UN bodies, are not accessible to the public, i.e., they are only available on GOVATOM once incorporated into the record of the meeting, and call for greater transparency.

USDel should hold the line on release of the Iran reports consistent with past Board practice and as a matter of transparency on an issue of international concern, but otherwise downplay the debate. USDel should reassert the Board's authority to release its own reports on a case-by-case basis, as noted in the cover note to the DG's report on the de-restriction issue, which cites the Board Chair's explicit statement in this regard upon adoption of the policy in 1997. USDel should indicate that, in this context, the United States remains supportive of releasing the reports on Syria that have been provided by the Secretariat. If appropriate, USDel is authorized to deliver the brief statement in the U.S. position paper (ref B).

In the unlikely event that a NAM member attempts to table a decision on de-restriction, USDel is instructed to vote as necessary to maintain the status quo and to protect the Board's right to release documents as it deems appropriate. Also, if deemed appropriate, USDel may state:

-- The United States notes that the Agency has no proactive policy for publishing de-restricted reports on its website. IAEA Board decisions, unlike UN Security Council resolutions or those of other UN bodies, are not accessible to the public.

-- The United States believes strongly that the issues being addressed by this Board are matters of interest to the general public, particularly as the IAEA's work continues to gain prominence in international affairs. As a matter of transparency and consistent with other UN organizations, the Secretariat should publish the decisions of the Board on the public website and implement the current de-restriction policy by posting de-restricted reports.

-- The basis for the confidentiality of safeguards information is found in the safeguards agreements, all of which require that the Agency protect "commercial and industrial secrets and other confidential information, coming to its knowledge in the implementation" of those agreements, and subject to exceptions, not publish or communicate to any State, organization or person any information obtained by it in connection with the "implementation of safeguards." The United States Believes that the release to the public of the reports on Iran (and Syria, if relevant) do not violate this obligation.

13. AGENDA ITEM 12 - ANY OTHER BUSINESS

ISSUE: Ref A reports few if any interventions may occur under this agenda item.

U.S. POSITION: No action is needed at this time. If issues arise for which guidance exists, USDel should draw on existing guidance. If other issues arise, USDel should immediately seek instructions from Washington.
CLINTON